IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Crl.MC.No. 3548 of 2007()

ST NO.2728/06 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THRISSUR

PETITIONER: ACCUSED:

ABDUL RASHEED, PALLIYIL HOUSE,
KALADY P.O., EDAPPAL, MALAPPURAM.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT /STATE:

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1. MANAPPURAM GENERAL FINANCE & LEASE LTD., VALAPPAD P.O., REP. BY SENIOR ASST. LEGAL MANAGER, A.V.UNNIKRISHNAN.

2. STATE REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY P.P.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3548 OF 2007

Dated this the 27th day of November, 2007

O R D E R

The petitioner faces allegations in a prosecution under section 138 of the Negotiable Instruments Act, 1881. Proceedings were initiated as early as in 2005. The petitioner has not entered appearance. Consequently, coercive processes have been issued by the learned Magistrate. The petitioner finds such processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** *[2003(1)KLT 339].*

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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